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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/498,515	02/04/2000	Howard G. Page	1285	8911
28004	7590	02/06/2006	EXAMINER	
RETTA, YEHDEGA				
ART UNIT		PAPER NUMBER		
3622				
DATE MAILED: 02/06/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)
	09/498,515	PAGE ET AL.
	Examiner	Art Unit
	Yehdega Retta	3622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) The period for reply expires _____ months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) They raise the issue of new matter (see NOTE below);
 (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. Applicant's reply has overcome the following rejection(s): _____.

6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1,5-8,10-13,16-18,20-23 and 25-27.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. Other: _____.


Yehdega Retta
RETTA YEHDEGA
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant amended claims 1, 12 and 22 and cancelled claims 3, 4, 14 and 15. Applicant incorporated the claims of 3 and 4 into claim 1 and the claims of 14 and 15 into claim 12 and added the limitation of 3 and 4 to claim 22. Those limitations have already been addressed in claim 3 and 4 or 14 and 15.

Applicant argues that the proper art does not disclose a first and second transportation systems and Applicant also states that the broadcast server 105 is Swix operates both channels. The prior art, Swix, teaches two different communication channels (two transport systems). The program broadcast running continuously on particular quadrature amplitude modulation (QAM) channel, the continue broadcast indicating the beginning of an advertisement insertion slot with a signal in the broadcasting transmission, known as the q-tone. Swix teaches the set-top boxes off-tune to the separate advertisement channel for the specified duration and tune back to the program broadcast after the advertisement insertion slot to resume watching the continuous broadcast channel. Swix further discloses the separate advertisement channel can be either another programming channel whose advertisement insertion slots coincide with program broadcast or can be a continuous stream of advertisement with no programming. Applicant's specification teaches (see page 5) the viewer residence 225 is connected to the video-on-demand system 200 over the transport system 202 and 204 and further discloses the transport system 202 uses a faster video transfer rate than the transport system 204, so typically the lower-speed video transport system 204 is cheaper to use than the higher-speed transport system 202. Therefore, applicant's transport system is the same as Swix's channel and in regard to Applicant's statement that the broadcast server 105 of Swix operates both channel, the system is the same as Applicant's invention since the Video-on-demand system (200) also operates both the transport system (channel).